

Merwin B. Moore III, M.D., was the claimant's authorized treating physician. He performed surgery on claimant's right shoulder on November 8, 1995. He continued to follow claimant after the surgery. On November 30, 1995, Dr. Moore noted that claimant's pain had subsided and that claimant was being started on a rehabilitation program. On December 15, 1995 Dr. Moore noted an excellent range of motion. Claimant's abduction was 170 degrees, forward flexion was 160 degrees and external rotation was about 30 degrees. Subsequently, on December 19, 1995, Dr. Moore noted that claimant had fallen on his right shoulder that day. Upon examination claimant's abduction was limited to 90 degrees with significant pain. Dr. Moore saw claimant again on December 30, 1995. At that time he noted that claimant had been involved in a fight a few days earlier and had injured his shoulder. Claimant had a lot of pain with abduction and was limited to about 110 degrees. Dr. Moore decided to put claimant back into physical therapy "until he has all of his ROM [range of motion] back" and would reassess him after that.

Claimant was seen by orthopedic surgeon Terrance C. Tisdale, M.D., at the request of his attorney on February 9, 1996. In his report dated March 15, 1996, Dr. Tisdale states, "I think the fight and the fall could certainly explain some of his slowness in terms of recovery but I don't think this will affect the final conclusion." We understand Dr. Tisdale's report to mean that claimant will require more medical treatment for his shoulder than what he would have without the two subsequent, intervening accidents. When this opinion testimony is taken together with the medical records of Dr. Moore, it is apparent that claimant's condition deteriorated substantially following the two intervening injuries.

Although the subsequent accidents may have only served to prolong claimant's recovery, without resulting in any additional permanent injury or impairment, it appears that the medical treatment claimant is seeking now is due to the subsequent, intervening accidents and likely would not have otherwise been necessary. Therefore, the preliminary hearing Order authorizing additional medical treatment at the expense of respondent and its insurance carrier should be reversed.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the March 26, 1996 preliminary hearing Order of Administrative Law Judge John D. Clark should be, and is hereby, reversed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of June 1996.

BOARD MEMBER \_\_\_\_\_

c: Roger A. Riedmiller, Wichita, KS  
Vincent A. Burnett, Wichita, KS  
John D. Clark, Administrative Law Judge  
Philip S. Harness, Director